



FH
[REDACTED]

**STATE OF WISCONSIN
Division of Hearings and Appeals**

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION
Case #: MQB - 174009

PRELIMINARY RECITALS

On April 28, 2016, the above petitioner filed a hearing request under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to challenge a decision by the Portage County Department of Human Services regarding Medical Assistance. The hearing was held on June 16, 2016, by telephone.

The issue for determination is whether the respondent correctly determined that petitioner's assets exceed program limits.

There appeared at that time the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, WI 53703

By: [REDACTED]

Portage County Department of Human Services
817 Whiting Avenue
Stevens Point, WI 54481-5292

ADMINISTRATIVE LAW JUDGE:

Peter McCombs
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Portage County.

2. Petitioner received Qualified Medicare Beneficiary (QMB) benefits until May, 2016. At that point QMB stopped because petitioner's assets were over the limit.
3. Petitioner owns real properties in [REDACTED] [REDACTED] [REDACTED], Wisconsin. Petitioner resides in [REDACTED], Wisconsin.
4. The county agency determined that the [REDACTED] home is not petitioner's homestead. It therefore is not exempt for MA and QMB purposes, and that led to the discontinuance of the QMB benefit.
5. The real properties in [REDACTED] are assessed at a total of \$144,500. Petitioner son is making the payments on the properties' mortgage, and it appears that the property cannot be sold as-is. In May or June, 2016, the real property at issue here was reportedly transferred by quit claim deed and petitioner was removed from title.

DISCUSSION

There are two programs that pay Part B premiums. See MA Handbook, Appendix 32.1. The Special Low-Income Medicare Beneficiary (SLMB) is a sub-program of Medical Assistance (MA) in which eligible participants have their Medicare Part B premium paid by the MA program even though the participants are not eligible for MA. See MA Handbook, Appendix 32.3. It is mandated by the Wis. Stat., §49.468(1m)(a). It is slightly different than the QMB program. That program not only pays for the Medicare Part B premium but some Medicare co-payments as well. See MA Handbook, App. 32.2.

The asset limit is \$7,280. A homestead is exempt, but non-homestead real property must be counted against the asset limit. See MA Handbook, Appendix 32.2.1 – financial rules are the same as for MA; also see Handbook, App. 16.8 and 16.9 for the rules concerning homestead and non-homestead real property. Of particular note is Appendix 16.8.1, which defines "home" as the place of abode.

Petitioner concedes that she does not reside at the [REDACTED] property, and noted that she lived there for seven years, but it became too expensive for her. There was discussion about the property being transferred from petitioner in May or June of this year, but the record contains no documentation of this this. The respondent indicated that, if the property was indeed transferred from petitioner's name, that could open the door to renewed eligibility for petitioner going forward.

At this time, the petitioner has not established any error by the respondent. The petitioner is advised to provide the respondent with documentation of the transfer of the [REDACTED] property should petitioner wish to regain eligibility for Medical Assistance.

CONCLUSIONS OF LAW

The county correctly determined that petitioner owned property in [REDACTED] [REDACTED] [REDACTED], which was not homestead property and which constituted a countable asset.

NOW, THEREFORE, it is

ORDERED

That the petition for review herein be and the same is hereby dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

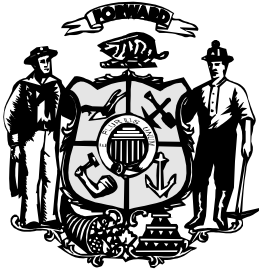
APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,
Wisconsin, this 18th day of July, 2016

\s _____
Peter McCombs
Administrative Law Judge
Division of Hearings and Appeals

**State of Wisconsin\DIVISION OF HEARINGS AND APPEALS**

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The preceding decision was sent to the following parties on July 18, 2016.

Portage County Department of Human Services
Division of Health Care Access and Accountability